

# EXHIBIT O

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION

Kevin Turner and Shawn Wooden,  
*on behalf of themselves and  
others similarly situated,*  
  
Plaintiffs,

v.

National Football League and  
NFL Properties LLC,  
successor-in-interest to  
NFL Properties, Inc.,  
  
Defendants.

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

No. 2:12-md-02323-AB

MDL No. 2323

**Hon. Anita B. Brody**

Civ. Action No. 14-00029-AB

**DECLARATION OF SAMUEL ISSACHAROFF IN SUPPORT OF CO-LEAD CLASS  
COUNSEL'S PETITION FOR AN AWARD OF ATTORNEY'S FEES AND  
REIMBURSEMENT OF COSTS AND EXPENSES**

Samuel Issacharoff declares as follows pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of Co-Lead Class Counsel's Petition for an Award of Attorney's Fees and Reimbursement of Costs and Expenses in connection with and for services rendered and expenses incurred for the common benefit of the Settlement Class in the above-captioned multidistrict litigation ("Action") from the inception of the litigation through December 28, 2016, as well as for the payment of expenses incurred therewith. I have personal

knowledge of the matters set forth in this declaration and, if called upon, I could and would testify competently thereto.

2. I have been consulted by lead attorneys for the plaintiffs since the inception of the consolidated litigation in the current MDL. All of my work consisted of legal advice on the structure of any proposed settlement. In that role, I attended meetings with cooperating counsel and, on occasion, with some of the NFL class members. However, my central work on this case began during the period of intensive settlement negotiations. My primary role was to serve as a legal advisor to lead counsel Chris Seeger on matters relating to class resolution of this case. In that role, I advised on settlement strategy and I appeared as needed at settlement discussions or before this Court. I took responsibility for the finalization of all briefs to this Court on settlement and class matters. I also served as lead counsel on all appeals of this case. I twice argued appeals before the Third Circuit, both times serving as the primary advocate in conjunction with the NFL's counsel, who argued a more limited set of issues. I coordinated with the NFL's counsel on both appeals, reviewed their briefs, and on two occasions held joint mootings sessions with NFL appellate counsel. I was also primary draftsman and counsel of record in the Supreme Court in opposition to the two petitions for certiorari. My work in the case is ongoing and I will continue to serve as lead appellate lawyer on any complications from or collateral challenges to settlement implementation.


3. The schedule attached hereto as Exhibit 1 is summary of the time I spent on the matter, all of it spent on legal briefing, argument, and advising. In addition, it includes a small number of hours spent by Cynthia Estlund on the preparation of class argument on preemption issues. Estlund is a professor at NYU Law School specializing in labor issues and she worked in assisting David Fredericks for argument on the issue before this Court.

4. The total lodestar comes to \$800,512.50. These lodestar calculations are based on current billing rates for non-contingent work for which I currently charge \$1,000 per hour for non-contingent work. For example, I submit regularly hour-based billings at this rate in a bankruptcy court and have been paid at this rate for some time. All of the hours were based on contemporaneous time records that I kept, or the small number of hours kept by Professor Estlund. Time expended in preparing this application for attorney's fees and expenses has been excluded.

5. I have separately billed for expenses and those are not included in my hourly rate. As detailed in Exhibit 2 hereto, I am seeking reimbursement of a total of \$7,302.22 in common benefit expenses incurred in connection with the prosecution of this Action. These expenses are reflected on contemporaneous billing records in this case. These expenses consist exclusively of travel to and from Philadelphia for court appointments, preparation for arguments, and for arguments before the Third Circuit. These expenses include hotel and travel, as well as meals and incidental hotel charges.

6. I attach a current CV for myself and for Cynthia Estlund. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 28, 2016 at Kent, Connecticut.



Samuel Issacharoff

# EXHIBIT 1



# **EXHIBIT 2**

**IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY  
LITIGATION**

**No. 12-md-2323-AB**

**Samuel Issacharoff**

**COST AND EXPENSE REPORT**

**Inception through July 15, 2016**

<b>NUMBER</b>	<b>CATEGORY</b>	<b>AMOUNT</b>
1	Assessments	0
2	Commercial Copies	0
3	Computerized Research	0
4	Court Reporters/Transcripts	0
5	Expert Services	0
6	Facsimile	0
7	Filing & Service Fees	0
8	In-House Copies	0
9	Long Distance Telephone	0
10	Postage/Express Delivery	0
11	Travel/Meals/Lodging	<b>7,302.22</b>
12	Miscellaneous	0
<b>TOTAL EXPENSES</b>		<b>7,302.22</b>



# EXHIBIT 3

## **SAMUEL ISSACHAROFF**

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300 West End Ave.  
New York, N.Y. 10023  
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### **ACADEMIC EXPERIENCE**

#### ***New York University School of Law***

- Bonnie and Richard Reiss Professor of Constitutional Law (2005 - )
- Visiting Professor (2004-2005)

#### ***Harvard Law School***

- Samuel Williston Visiting Professor (Fall 2008)

#### ***Columbia Law School***

- Harold R. Medina Professor in Procedural Jurisprudence (2001 - 2005)
- Professor (1999 - 2001)
- Visiting Professor (1998-1999)

#### ***Oxford University***

- Astor Visiting Lecturer (June 2005)

#### ***Tel Aviv University***

- Visiting Professor (May-June 2006)

#### ***University of Texas School of Law***

- Joseph D. Jamail Centennial Chair in Law (1998-1999)
- Charles Tilford McCormick Professor in Law (1994-1998)
- Professor and Preston Shirley Faculty Fellow (1993-94)
- Assistant Professor (1989-1993)

#### ***University of Pennsylvania Law School***

- Lecturer in Law (1986-1989)

#### ***Gerzensee Center for Law and Economics, Switzerland***

- Visiting Lecturer on Constitutional Law (May 2008)

***University of Toronto School of Law***

- Full Professor Status Only (2011- 2014) (Dissertation reviewer)

***University of Melbourne School of Law***

- Senior Fellow (2011)

*Courses Taught:* Civil Procedure, Employment Law, Law of Democracy, Constitutional Law, Comparative Constitutional Law, Complex Litigation, Legal Process, Profession of Law

**EDUCATION**

***Yale Law School, J.D. 1983***

- Editor, Yale Law Journal.

***Graduate Center, City University of New York***

- Graduate studies in Labor History (1976-77); University Fellowship.

***Universite de Paris, 1975-76***

***State University of New York at Binghamton, B.A. 1975***

- Major in History.

**PROFESSIONAL EXPERIENCE**

- ***Guerrieri, Edmond & James, Washington, D.C. (1988-1989)***  
Of counsel, handling special litigation for labor law firm.
- ***Lawyers' Committee for Civil Rights Under Law, Washington, D.C. (1985-1988)***  
Staff attorney with Voting Rights Project (served as Acting Director of Voting Rights Project, 1985-86). Conducted voting rights litigation and other civil rights case work throughout the U.S.
- ***Kirschner, Walters, Willig, Weinberg & Dempsey, Associate, Phila., PA. (1985)***  
Union labor law practice representing public and private employees in court, arbitration and administrative proceedings.
- ***Lawyers' Committee for International Human Rights (1984)***  
Received J. Roderick MacArthur Fellowship to represent Lawyers' Committee in Argentina and Uruguay. Worked with Centro de Estudios Legales y Sociales in Buenos Aires on issues concerning transition from dictatorship to civilian government and prosecutions of former military rulers.
- ***United States Court of Appeals for the Third Circuit (1983-84)***  
Law Clerk to Honorable Arlin M. Adams.

## PUBLICATIONS

### Articles

- *Outsourcing Politics: Political Parties and the Theory of the Firm*, \_\_ HOUSTON L. REV.. \_\_ (forthcoming 2017)
- *Voter Welfare: An Emerging Rule of Reason in Voting Rights Law*, \_\_ IND. L. J.. \_\_ (forthcoming 2016)
- *Living to Fight Another Day: Judicial Deferral in Defense of Democracy*, 2016 WISC. L. REV. 683 (with Rosalind Dixon) .
- *Constitutional Implications of the Cost of War*, 83 U. CHICAGO L. REV. 169 (2016) (with Lucas Issacharoff)
- *Voting Rights at 50*, 67 ALA. L. REV. 387 (2016).
- *Ballot Bedlam*, 64 DUKE L. J. 1363 (2015).
- *The Australian Alternative: A View From Abroad of Recent Developments in Securities Class Actions*, 34 U. NEW SOUTH WALES L. REV. 179 (2015) (with Thad Eagles).
- *Constitutional Courts and Consolidated Power*, 62 AM. J. COMP. L. 585 (2014).
- *The Democratic Risk to Democratic Transitions*, 5 CONSTIT. COURT REV. 1 (2014).
- *The BP Oil Spill Settlement and the Paradox of Public Litigation* , 74 L.S.U. L. REV. 397 (2014) (with D. Theodore Rave).
- *Market Intermediaries in the Post-Buckley World*, 89 NYU L. REV. ONLINE 105 (2014)
- *Litigation Funding and the Problem of Agency Cost in Representative Actions*, 66 DEPAUL L. REV. 561 (2014).
- *Beyond the Discrimination Model on Voting*, 127 HARV. L. REV. 95 (2013).
- *Assembling Class Actions*, 90 WASH. U. L. REV. 699 (2013).
- *Targeted Warfare: Individuating Enemy Responsibility*, 88 N.Y.U. L. REV 1521 (2013) (with Richard H. Pildes)
- *The Governance Problem in Aggregate Litigation*, 81 FORDHAM L. REV. 3165 (2013).
- *An Information Forcing Approach to the Motion to Dismiss*, J. LEGAL ANALYSIS (June 5, 2013) <http://jla.oxfordjournals.org/content/early/2013/06/05/jla.lat002.full>. (with Geoffrey P. Miller).
- *Special Interests After Citizens United: Access, Replacement, and Interest Group Response to Legal*

*Change*, 9 ANNUAL REV. L. & SOC. SCIENCE 185 (2013) (with Jeremy Peterman).

- *Federalized America: Reflections on Erie v. Tompkins and State-Based Regulation*, 10 J. ECON. LAW & POL'Y 199 (2013).
- *Prologue: Argentina's Electoral Reforms*, 11 ELECTION L. J.529 (2012).
- *Fairness in Aggregation*, 9 U.S.-CHINA L. REV. 477 (2012).
- *Class Actions and State Authority*, 44 LOY. U. CHI. L. J.370 (2012).
- *Acciones de Clase y Autoridad Estatal*, 219 REVISTA DE PROCESSO.153 (2013)(Brazil, translation).
- *10 X 10*, 10 INT'L J. CONSTIT. L. 778 (2012).
- *Clarity About Super PACs, Independent Spending, and Citizens United*, 2 J.L.469 (2012).
- *Disclosure, Agents, and Consumer Protection*, 167 J. OF INSTITUTIONAL & THEORETICAL ECON. 56 (2011)
- *Constitutional Courts and Democratic Hedging*, 99 GEORGETOWN L. J. 961 (2011)
- *On Political Corruption*, 124 HARV. L. REV. 118 (2010)
- *Judging in Times of the Extraordinary?*, 47 HOUSTON L. REV. 533 (2010)
- *Citizens United and the American Law of Party Funding*, 30 QUADERNI COSTITUZIONALI 392 (2010) (in Italian)
- *Pragmatic Originalism?*, 5 N.Y.U. J. OF LAW & LIBERTY 517 (2010)
- *The Public Value of Settlement*, 78 FORDHAM L. REV. 1177 (2009) (with Robert H. Klonoff).
- *Political Safeguards in Democracies at War*, 2009 OXFORD J. LEGAL STUDIES 1
- *The Constitutional Logic of Campaign Finance Regulation*,36 PEPPERDINE. L. REV. 373 (2009).
- *Will Aggregate Litigation Come to Europe?*, 62 VANDERBILT L. REV. 179 (2009) (with Geoffrey P. Miller).
- *Private Claims, Aggregate Rights*. 2008 SUPREME COURT REV. 183
- *Meriwether Lewis, the Air Force, and the Surge: The Problem of Constitutional Settlement*, 12 LEWIS & CLARK L. REV. 649 (2008).
- *Class Action Settlements Under Attack*, 156 U. PENN L. REV. 1649 (2008)(with Richard.A Nagareda).
- *Democracy and Collective Decisionmaking*,, 6 INT'L J. CONSTITUTIONAL LAW 231 (2008).

- *Fragile Democracies*, 120 HARV. L. REV. 1405 (2007).
- *Protected from Politics: Diminishing Margins of Electoral Competition in U.S. Congressional Elections*, 68 OHIO ST. L. REV. 1121 (2007)(with Jonathan Nagler).
- *Regulating After The Fact*, 56 DEPAUL L. REV. 375 (2007).
- *Backdoor Federalization*, 53 UCLA L. REV. 1353 (2006)(with Catherine M. Sharkey).
- *Credit Card Accountability*, 73 UNIV. CHICAGO L. REV.157 (2006)(with Erin F. Delaney).
- *Settled Expectations in a World of Unsettled Law*, 106 COLUM. L. REV. 1839 (2006).
- *Getting Beyond Kansas*, 74 UMKC L. REV. 613 (2006).
- *Law, Rules and Presidential Selection*, 120 POLITICAL SCIENCE QUARTERLY 113(2005).
- *Collateral Damage: The Endangered Center in American Politics*, 46 WILLIAM & MARY L. REV. 415 (2004).
- *The American Law of Repose*, 23 CIVIL JUSTICE QUARTERLY 324 (2004).
- *Where to Draw the Line: Judicial Review of Political Gerrymanders*, 153 PENN L. REV. 541 (2004)(with Pamela S. Karlan).
- *The Elusive Search for Constitutional Integrity: A Memorial for John Hart Ely*, 57 STANFORD L. REV.727 (2004).
- *Is Section 5 of the Voting Rights Act a Victim of Its Own Success?*, 105 COLUM. L. REV. 1710 (2004).
- *The Inevitability of Aggregate Settlements: An Institutional Account of American Tort Law*, 57 VANDERBILT L. REV.1571 (2004)(with John Fabian Witt).
- *Constitutionalizing Democracy in Fractured Societies*, 82 TEXAS L. REV. 1861 (2004).
- *Constitutionalizing Democracy in Fractured Societies*, 58 JOURNAL OF INTERNATIONAL AFFAIRS 73 (2004)(version of prior entry).
- *Throwing in the Towel: The Constitutional Morass of Campaign Finance*, 3 ELEC. L. J. 259 (2004).
- *Emergency Contexts Without Emergency Powers: The United States' Constitutional Approach to Rights During Wartime*, 2 INT'L JOURNAL OF CONSTITUTIONAL LAW 296 (2004)(with Richard H. Pildes).
- *Between Civil Libertarianism and Executive Unilateralism: An Institutional Process Approach to Rights During Wartime*, 5 THEORETICAL INQUIRIES IN LAW 1 (2003)(with Richard H. Pildes)(overlaps with prior article).
- *Owen Fiss and the Warren Court Legacy: Politics, Law, and the Struggle for Equal Protection*, 58 MIAMI. L. REV. 35 (2003)(with Pamela S. Karlan).

- *The Enabling Role of Democratic Constitutionalism: Fixed Rules and Some Implications for Contested Presidential Elections*, 81 TEX. L. REV. 1985 (2003).
- *Regulation for Conservatives: Human Decision Making and the Case for “Asymmetric Paternalism,”* 151 PENN. L. REV. 1211 (2003)(with Colin Camerer, George Loewenstein, Ted O’Donoghue, and Matthew Rabin).
- *Gerrymanders and Political Cartels*, 116 HARV. L. REV. 593 (2002).
- *Why Elections?*, 116 HARV. L. REV. 684 (2002).
- *Preclusion, Due Process, and the Right to Opt Out of Class Actions*, 77 NOTRE DAME L. REV. 1057 (2002)
- *The Content of Our Casebooks: Why Cases Get Litigated*, 29 FL. ST. L. REV. 1265 (2002).
- *The Two Sides of Freedom of Expression*, 1 REVISTA DE DERECHO 79 (Universidad de Montevideo – 2002).
- *“Shocked”: Mass Torts and Aggregate Asbestos Litigation After Amchem and Ortiz*, 80 U. TEX. L. REV. 1925 (2002).
- *Law and Misdirection in the Debate Over Affirmative Action*, 2002 UNIV. CHI. LEGAL FORUM 11.
- *The Difficult Path From Observation to Prescription*, 77 N. Y. U. L. REV 36 (2002).
- *Behavioral Decision Theory at the Court of Public Law*, 87 CORNELL L. REV. 671 (2002).
- *Political Judgments*, 68 U. CHI. L. REV. 637 (2001).
- *Can Process Theory Constrain Courts?*, 72 U. COL. L. REV. 923 (2001)(with Michael C. Dorf).
- *Race and Campaign Finance Reform*, 79 N. CAR. L. REV. 1523 (2001).
- *Private Parties With Public Purposes: Political Parties, Associational Freedoms, and Partisan Competition*, 101 COLUM. L. REV. 274 (2001).
- *Introduction to Symposium: The Structures of Democratic Governance*, 100 COLUM. L. REV. 593 (2000).
- *Oversight of Regulated Political Markets*, 24 HARV. J. L & PUB. POL’Y 91 (2000).
- *The Vexing Problem of Reliance in Consumer Class Actions*, 74 TULANE. L. REV. 1633 (2000).
- *Discrimination with a Difference: Can Employment Discrimination Law Accommodate the Americans with Disabilities Act?*, 79 NORTH CAROLINA L. REV. 307 (2001)(with Justin Nelson).
- *Governance and Legitimacy in the Law of Class Actions*, 1999 SUPREME COURT REVIEW 187.
- *The Hydraulics of Campaign Finance Reform*, 77 TEX. L. REV. 1705 (1999)(with Pamela Karlan).

- *Governing through Intermediaries*, 85 VIRGINIA L. REV. 1627 (1999)(with Daniel Ortiz).
- *Group Litigation of Consumer Claims: Lessons of the American Experience*, 34 TEX. INT'L L. J. 135 (1999).
- *Not By 'Election Law' Alone*, 32 LOYOLA L. REV. 1173 (1999)(with Richard Pildes).
- *Standing and Misunderstanding in Voting Rights Law*, 111 HARV. L. REV. 2276 (1998)(with Pamela Karlan).
- *Can Affirmative Action Be Defended?*, 59 OHIO ST. L. J. 669 (1998).
- *Can There Be a Behavioral Law and Economics?*, 51 VANDERBILT L. REV. 1729 (1998).
- *Politics as Markets: Partisan Lockups of the Democratic Process*, 50 STANFORD L. J. 643 (1998)(with Richard Pildes).
- *Creating Convergence: Debiasing Biased Litigants*, 22 J. OF LAW AND SOCIAL INQUIRY 913 (1998)(with Linda Babcock and George Loewenstein).
- *Is Age Discrimination Really Age Discrimination?: The ADEA's Unnatural Solution*, 72 N.Y.U. L. REV. 780 (1997)(with Erica Worth Harris).
- *Class Action Conflicts*, 30 U. C. DAVIS L. REV. 805 (1997).
- *Racial Gerrymandering in a Complex World: A Reply to Judge Sentelle*, 45 CATH. U. LAW REV. 1257 (1996).
- *The Constitutional Contours of Race and Politics*, 1995 SUPREME COURT REVIEW 45.
- *Contracting For Employment: The Limited Return of the Common Law*, 74 TEXAS LAW REVIEW 1783 (1996).
- *Identifying the Harm in Racial Gerrymandering Claims*, 1 MICH. J. OF RACE & LAW 47 (1996)(with Thomas C. Goldstein).
- *Supreme Court Destabilization of Single-Member Districts*, 1995 UNIV. OF CHICAGO LEGAL FORUM 205.
- *Unintended Consequences of Mandatory Disclosure*, 73 TEXAS L. REV. 753 (1995)(with George Loewenstein).
- *Groups and the Right to Vote*, 44 EMORY L. J. 869 (1995)
- *Women and the Workplace: Accommodating the Demands of Pregnancy*, 95 COL. L. REV. 2154 (1994)(with Elyse Rosenblum).
- *Race and Redistricting: Drawing Constitutional Lines after Shaw v. Reno*, 92 MICHIGAN LAW REVIEW 588 (1993)(with T. Alexander Aleinikoff).



- *Biased Judgments of Fairness in Bargaining*, 85 AMERICAN ECONOMIC REVIEW 1337 (1995)(with L. Babcock, G. Loewenstein, and C. Camerer).
- *Judging Politics: The Elusive Quest for Judicial Review of Political Fairness*, 71 TEXAS LAW REVIEW 1643 (1993).
- *Source Dependence in the Valuation of Objects*, 7 JOURNAL OF BEHAVIORAL DECISIONMAKING 157 (1994)(with G. Loewenstein)
- *Polarized Voting and the Political Process: The Transformation of Voting Rights Jurisprudence*, 90 MICH. L. REV. 1833 (1992).
- *When Substance Mandates Procedure: Martin v. Wilks and the Rights of Vested Incumbents in Civil Rights Consent Decrees*, 77 CORNELL L. REV. 189 (1992).
- *Self-Serving Assessments of Fairness and Pretrial Bargaining*, 22 JOURNAL OF LEGAL STUDIES 135 (1992)(with George Loewenstein, Colin Camerer, Linda Babcock).
- *The Census Undercount and Minority Representation: The Constitutional Obligation of the States to Guarantee Equal Representation*, 13 REVIEW OF LITIGATION 1 (1993)(with Allan J. Lichtman).
- *Administering Damage Awards in Mass-Tort Litigation*, 10 REV. OF LITIG. 463 (1991).
- *Black/White Voter Registration Disparities in Mississippi: Legal and Methodological Issues in Challenging Bureau of Census Data*, 7 J. LAW & POLITICS 525 (1991)(with Allan J. Lichtman).
- *Second Thoughts About Summary Judgment*, 100 YALE L.J. 73 (1990)(with George Loewenstein).
- *Dictatorship on Trial: Prosecution of Human Rights Violations in Argentina*, 10 YALE J. INT'L LAW 118 (1985) (with E. Mignone and C. Estlund).
- *Note, Making the Violation Fit the Remedy: The Intent Standard and Equal Protection Law*, 92 YALE L.J. 328 (1982).

#### **Review Essays**

- *Bearing the Costs*, Review of M. Kelman, STRATEGY OR PRINCIPLE?: THE CHOICE BETWEEN REGULATION AND TAXATION, 53 STAN. L. REV. 519 (2000).
- *Contractual Liberties in Discriminatory Markets*, Review of R. Epstein, FORBIDDEN GROUNDS, 70 TEX. L. REV. 1219 (1992).
- *Reconstructing Employment*, Review of P. Weiler, GOVERNING THE WORKPLACE: THE FUTURE OF LABOR AND EMPLOYMENT LAW, 104 HARV. L. REV. 607 (1990).

### ***Books***

- FRAGILE DEMOCRACIES: CONTESTED POWER IN THE ERA OF CONSTITUTIONAL COURTS (Cambridge Univ. Press, 2015).
- CIVIL PROCEDURE (Foundation Press, 2005).
- CIVIL PROCEDURE (Foundation Press, 2d. edition, 2008).
- CIVIL PROCEDURE (Foundation Press, 3d. edition, 2011).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 1998).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 2d. edition, 2001).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 3d. edition, 2007).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes)(Foundation Press, 4<sup>th</sup>. edition, 2012).
- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan, Richard Pildes, and Nathaniel Persily)(Foundation Press, 5<sup>th</sup>. edition, 2016).
- WHEN ELECTIONS GO BAD: THE LAW OF DEMOCRACY AND THE PRESIDENTIAL ELECTION OF 2000 (with Pamela Karlan and Richard Pildes)(Foundation Press, 2001).
- WHEN ELECTIONS GO BAD: THE LAW OF DEMOCRACY AND THE PRESIDENTIAL ELECTION OF 2000 (with Pamela Karlan and Richard Pildes)(Foundation Press, 2d. edition, 2001).
- PARTY FUNDING AND CAMPAIGN FINANCING IN INTERNATIONAL PERSPECTIVE (with K.D. Ewing) (Hart Press, Oxford, 2006).

### ***Book Chapters***

- *Comparative Constitutional Law as a Window on Democratic Institutions*, in MODERN COMPARATIVE CONSTITUTIONAL LAW (Rosalind Dixon & Erin F. Delaney, eds., \_\_\_\_\_, forthcoming 2017).
- *Due Process in Law*, in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES, 2nd ed. 696 (James D. Wright, ed., Oxford: Elsevier, 2015).
- *Citizens United y la Regulacion del Financiamiento a Partidos Politicos en los Estados Unidos de American*, in SENTENCIAS RELEVANTES DE CORTES EXTRANJERAS 153 (Tribunal Electoral del Poder Judicial de la Federacion, Mexico, 2013).
- *Drones and the Dilemma of Modern Warfare*, in DRONES AND THE PROMISE OF LAW: HOW

ADVANCES IN MILITARY TECHNOLOGY ARE TRANSFORMING ARMED CONFLICT AND CHALLENGING POLICY AND PRACTICE (P. Bergen & D. Rothenberg, eds) (Cambridge Univ. Press, 2014) (with Richard H. Pildes).

- *Epilogue: Bush v. Gore and the Constitutional Right to Vote*, in ELECTION ADMINISTRATION IN THE UNITED STATES: THE STATE OF REFORM AFTER BUSH V. GORE (M. Alvarez & B. Grofman, eds) (Cambridge Univ. Press, 2014) (with Richard H. Pildes).
- *Due Process in Law*, in INTERNATIONAL ENCYCLOPEDIA OF SOCIAL AND BEHAVIORAL SCIENCES, 2<sup>nd</sup> Ed. (Forthcoming 2015).
- *Managing Conflict Through Democracy*, in RIGHTS IN DIVIDED SOCIETIES COMPARADO 33 (Harvey & Schwartz, eds) (Hart Publishing 2012).
- *Antidiscrimination in Employment: The Simple, the Complex, and the Paradoxical*, in RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW 385 (C. Estlund & M. Wachter, eds) (Edward Elgar Press 2012) (with E. Scharff).
- *Fairness in Aggregation*, in PROCESOS COLECTIVOS/CLASS ACTIONS: PROCEEDINGS OF 1<sup>ST</sup> INTERNATIONAL CONFERENCE ON PROCEDURAL LAW 31 (2012).
- *The Majoritarian Threat to Democracy: Constitutional Courts and the Democratic Pact*, in MAJORITY POLITICS 236 (S. Novak & J. Elster, eds) (2014).
- *Will Aggregate Litigation Come to Europe?*, in THE LAW AND ECONOMICS OF CLASS ACTIONS IN EUROPE: LESSONS FROM AMERICA 37 (J. Backhaus, A. Cassone & G. Ramello eds) (2012) (with Geoffrey Miller).
- *Party Funding and Campaign Finance Law in the United States*, in LA RESOLUCION DE LOS CONFLICTOS ELECTORALES: UN ANALISIS COMPARADO, (P. Biglino Campos & L. Delgado del Rincon, eds) (2010).
- *Facts, Investigation and the Role of Discovery*, in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 39 (P. Gottwald, ed)(2010).
- *Aggregating Private Claims*, in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 63 (P. Gottwald, ed)(2010).
- *The Institutional Dimension of Consumer Protection*, in NEW FRONTIERS OF CONSUMER PROTECTION: COMBINING PRIVATE AND PUBLIC ENFORCEMENT (F. Cafaggi & H.-W. Micklitz, eds) (2009)(with Ian Samuel).
- *Democracy and Electoral Processes*, in RESEARCH HANDBOOK ON LAW AND PUBLIC CHOICE 173 (D. Farber & A. J. O'Connell, eds) (2010)(with Laura E. Miller).
- *A Cosmopolitan Judge for a Cosmopolitan Era: An Essay in Honor of Carl Baudenbacher*, in ECONOMIC LAW AND JUSTICE IN TIMES OF GLOBALIZATION: FESTSCHRIFT FOR CARL BAUDENBACHER 131 (M. Monti, N. Liechtenstein, B. Vesterdorf, J. Westbrook, L. Wildhaber, eds)(2007).

- *Supreme Court Preemption: The Contested Middle Ground of Products Liability*, in *FEDERAL PREEMPTION: STATES' POWERS, NATIONAL INTEREST* 194 (Richard A. Epstein & Michael S. Greve, eds.) (2007) (with Catherine Sharkey).
- *Does Section 5 of the Voting Rights Act Still Work?*, in *THE FUTURE OF THE VOTING RIGHTS ACT* (D. Epstein, R. Pildes, R. de la Garza, S. O'Halloran, eds., Russell Sage, 2006).
- *Compensation for the Victims of September 11* in *THE HANDBOOK OF REPARATIONS* (P. De Grieff, ed., Oxford 2006) (with Anna Morawiec Mansfield).
- *Legal Regulation of Conflict of Interest*, in *CONFLICTS OF INTEREST: PROBLEMS AND SOLUTIONS IN LAW, MEDICINE, AND ORGANIZATIONAL SETTINGS* (M. Bazerman, G. Loewenstein, & D. Moore, eds., Cambridge Univ. Press, 2005).
- *Baker v. Carr in Context*, in *CONSTITUTIONAL LAW STORIES* 297-323 (M. Dorf, ed., Foundation Press, 2004) (with Stephen Ansolabehere).
- *Due Process in Law*, in *INTERNATIONAL ENCYCLOPEDIA OF SOCIAL AND BEHAVIORAL SCIENCES* 3894-97 (Elsevier Ltd., 2001) (2d ed. 2012).
- *Too Much Lawyering, Too Little Law*, in *THE REFORM OF CIVIL PROCEDURE*, (A.A.S. Zuckerman & R. Cranston, eds., Oxford Univ. Press, 1995).
- *Bargaining Impediments and Settlement Behavior* (with Charles Silver and Kent Syverud), in *DISPUTE RESOLUTION: BRIDGING THE SETTLEMENT GAP*, Anderson, ed., JAI Press, 1996).
- *The Redistricting Morass*, in *AFFIRMATIVE ACTION AND REPRESENTATION*, (A. Peacock, ed., Carolina Acad. Press, 1997).
- *Litigating for Equality of Political Opportunity*, in J. Lobel, ed., *CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK* (Clark, Boardman, 1987).

#### ***Reports, Other Publications, and Current Manuscripts***

- "Plebiscite Options on the Status of Puerto Rico," Report prepared for the Governor of Puerto Rico and the Partido Popular Democrático October 8, 2015 (Updated February 6, 2016).
- "It's Still a Struggle," REVIEW OF ARI BERMAN, *GIVE US THE BALLOT: THE MODERN STRUGGLE FOR VOTING RIGHTS IN AMERICA*, *The American Prospect*, Fall 2015, at 92.
- "Keep Shining the Light on 'Dark Money,'" *POLITICO* (April 12, 2015) (with Robert F. Bauer)
- "The Future of Voting Rights 17 *N.Y.U. J. LEGIS. & PUB.POL'Y* (2014) (symposium contribution).
- "Where Parties Get Their Money From" *The Indian Express*, June 7, 2013.
- "Iraq and Afghanistan, Who Is an Enemy Combatant?" *Los Angeles Times*, June 4, 2010.
- "Fear Not, Critics of *Citizens United*, A Constitutionally Tested Solution is at Hand," *American*

Lawyer, April 2010.

- “Party Funding and Campaign Finance Law in the United States,” Report for the Venice Commission of the Council of Europe (2009).
- “The Impact of Politics and Constitutional Law on Mass Litigation: The Evolution of Civil Liability in the U.S. and Beyond,” 12<sup>th</sup> International Liability Forum 14 (Munich Re Group) (2008).
- “The Law of Politics,” 95 GEO. L. J. 1369 (2007).
- “Declarative Sentences: Congress Has the Power to Make and End War – Not Manage It,” SLATE MAGAZINE, March 5, 2007 (with Noah Feldman).
- “Create a National Voter Registration List,” BOSTON REVIEW, Vol. 31, No. 5, Sept-Oct. 2006, at 21.
- “Democracy Isn’t Built On One Election Alone,” WASHINGTON POST, Jan. 23, 2005, at B01.
- “In Real Elections, There Ought to Be Competition,” NEW YORK TIMES, Feb. 16, 2002, at A19.
- “The Court’s Legacy for Voting Rights,” NEW YORK TIMES, DEC. 14, 2000, at A39.
- “Charles Alan Wright: The Scholar as Lawyer,” in A TRIBUTE: CHARLES ALAN WRIGHT, THE MAN AND THE SCHOLAR (2000).
- “Due Process,” INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES (2000).
- “Political Fairness and Judicial Review,” ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- “The Census and the Constitution,” ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- “Electoral Districting, Fairness and Judicial Review,” ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).
- “Age Discrimination,” ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998)(with E. Harris).
- “The Destruction of Public Funding,” TEXAS LAWYER, May 12, 1997, at 20 (with David Horan).
- “All for One,” THE NEW REPUBLIC, Nov. 18, 1996, at 10 (with Richard Pildes).
- “No Place for Political Gerrymandering,” TEXAS LAWYER, Aug. 5, 1996 (with Richard Pildes).
- “Should There Be Rules of Procedure?,” Leiden University, Institute of Anglo-American Law, Clifford Chance Distinguished Lecture Series (Feb. 1995).
- “Conference: The Supreme Court, Racial Politics, and the Right to Vote: *Shaw v. Reno* and the Future of the Voting Rights Act, 44 AMERICAN UNIV. L. REV. 1 (1994).

- "A Highly Visible Bloodletting," AUSTIN AMERICAN STATESMAN, Oct. 2, 1994 (Op-ed piece on redistricting).
- "Race and Redistricting," 2 RECONSTRUCTION, No. 3 (1994).
- "The State of Voting Rights Law," 3 ISSUES IN NATIONAL AFFAIRS No. 1 (1993)(Paper prepared for the American Jewish Committee).
- "Remedial Options for the Selection of the Texas Judiciary," Report prepared for settlement negotiations in *LULAC/Houston Lawyers' Association v. State of Texas*, Jan. 14, 1993,
- "Adjusting Census Data For Reapportionment: An Independent Role for the States," TEXAS LAWYER, March 18, 1991 (with A. Lichtman).
- "The 37.5 Percent Solution: 'Limited Voting' Could Rescue Judiciary," TEXAS LAWYER, March 5, 1990.
- "The Texas Judiciary and the Voting Rights Act: Background and Options," Report prepared for the Texas Policy Research Forum (1989).
- "The Generals Give Back Uruguay," Human Rights Report of the Lawyers' Committee for International Human Rights (1985)(with C. Estlund).

#### AMERICAN LAW INSTITUTE

- Reporter, Principles of the Law: Aggregate Litigation (2010)

#### SELECTED LECTURES

- UNIVERSITY OF HOUSTON SCHOOL OF LAW, THE FRANKEL ENDOWED LECTURE, November 4, 2016: *Outsourcing Politics: Political Parties and the Theory of the Firm*
- INDIANA UNIVERSITY SCHOOL OF LAW, THE JEROME HALL ENDOWED LECTURE, February 18, 2016: *The Emerging Rule of Reason in Voting Rights Law*
- DUKE UNIVERSITY SCHOOL OF LAW, THE BRAINERD CURRIE MEMORIAL LECTURE, February 19, 2014: *Ballot Bedlam*
- UNIVERSITY OF HOUSTON LAW CENTER, THE JOHN R. BROWN MEMORIAL LECTURE, March 1, 2010: *Judging in the Time of the Extraordinary*
- BROWN UNIVERSITY, THE JANUS LECTURE, September 17, 2008: *Was the New Deal A Good Deal? New Deal Constitutionalism Reexamined*
- OXFORD UNIVERSITY, THE HART MEMORIAL LECTURE, May 6, 2008: *Democracy in Times of War*
- LEWIS & CLARK LAW SCHOOL, HIGGINS LECTURE, March 19, 2008: *Meriwether Lewis, the Air Force,*

*and the Surge: The Problem of Constitutional Settlement*

- DRAKE LAW CENTER CONSTITUTIONAL LAW DISTINGUISHED LECTURE, November 8, 2007: *Democracy at War*
- JULIUS ROSENTHAL FOUNDATION SERIES LECTURES, Northwestern University School of Law, March 28 and 29, 2007: *Fragile Democracies, and Contested Visions of Democracy*
- ASTOR VISITING LECTURE, Oxford University, June 8, 2005: *When Rights Break Down: U.S. Constitutional Responses in Times of National Security Crisis.*
- JAMES GOULD CUTLER LECTURE, William and Mary University School of Law, Feb. 19, 2004: *The Endangered Center in American Politics.*
- SIBLEY LECTURE, University of Georgia School of Law, March 16, 2000: *Political Parties, the Constitution and Democratic Competition.*
- MASON LADD LECTURE, Florida State University School of Law, March 15, 2000: *Why Do Cases Get Litigated?*

### SELECTED PROFESSIONAL ACTIVITIES

- SENIOR LEGAL COUNSEL, Obama for America Campaign, 2008, 2012.
- FELLOW, American Academy of Arts and Sciences.
- COUNCIL, American Law Institute.
- REPORTER, Principles of Aggregate Litigation, American Law Institute.
- MEMBER, Editorial Board, Foundation Press.
- BOARD OF DIRECTORS, Brennan Center for Justice at NYU School of Law, 2006-2011.
- INTERNATIONAL ADVISORY BOARD, CIPPEC – Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento, Buenos Aires, Argentina, 2012-present.
- FUTURE CLAIMS REPRESENTATIVE, Bankruptcy Trust of TH Agriculture and Nutrition, Inc, Representative for future asbestos claimants in \$900 million bankruptcy trust.
- ADVISOR, Restatement Third Employment Law, American Law Institute.
- MEMBER, Judicial Selection Task Force of the Texas Commission on Judicial Efficiency (1995-1997).
- LEGAL CONSULTANT, National Research Council, Panel on Census Requirements in the Year 2000 and Beyond (1993-1995).
- COUNSEL, *Travelers v. Bailey*, U.S. Supreme Court, 2009. Argued for Respondents.
- CONSULTANT, State of Florida, *Johnson v. DeGrandy*, (1994) (Florida legislative redistricting litigation).
- COUNSEL to State of Texas for 1992 Redistricting in *Richards v. Terrazas*, No. 91-1270 (U.S. Supreme Court), and *Texas v. United States*, No. 91-2383 (D.D.C.). (1992-1993).
- SPECIAL MASTER TASKFORCE for Eastern District of Texas Asbestos Litigation, *Cimino v. Raymark Industries, Inc.*, 751 F.Supp. 649 (E.D. Tex. 1990). (1989-1990).
- BOARD OF DIRECTORS, Lawyers' Committee for Civil Rights Under Law of Texas. (1991-1995); Executive Committee of the Board of Directors (1993-1995).
- COUNSEL to State of Texas and University of Texas Law School in *Hopwood v. State of Texas and Regents of the University of Texas System*, No. 92 CA 563 (W.D. Texas, 1992)(challenge to School of Law affirmative action admissions practices)(1992-2001).



### **AWARDS**

- *Roscoe Pound Institute Appellate Advocacy Award* 2015 (Inaugural Selection)
- *Podell Distinguished Teaching Award*, New York University School of Law 2009  
Annual student-selected award to four faculty members
- *Willis L. M. Reese Prize for Teaching*, Columbia Law School 2004  
Annual student-selected award to one faculty member
- *Texas Excellence Teaching Award in the School of Law*, Univ. of Texas School of Law, 1994  
Annual student-selected award to one faculty member
- *James W. Vick Texas Excellence Awards in Academic Advising*, Univ. of Texas, 1994  
University-Wide Award
- *Open Door Award*, Univ. of Texas School of Law 1992  
Law School Student Award

### **PERSONAL**

- *Born*: Sept. 15, 1954, Buenos Aires, Argentina
- *Married* to Prof. Cynthia Estlund, New York University School of Law
- *Children*: Jessica, Lucas

# EXHIBIT 4

**CYNTHIA L. ESTLUND**

New York University School of Law  
40 Washington Square South · New York, NY 10012  
Tel: 212-998-6184 · E-mail: ce21@nyu.edu

**Current Academic Position**

**New York University School of Law**

Catherine A. Rein Professor of Law (July 2006 to present)

Visiting Professor (Spring 2006)

*Courses:* Labor Law, Employment Law, Torts, Property, Transnational Labor Law,  
Comparative Labor and Employment Law

**Prior Academic Positions**

**Harvard Law School**

Louis D. Brandeis Visiting Professor (Fall 2008)

**Columbia Law School**

Isidore and Seville Sulzbacher Professor of Law (2004 to 2006)

Professor of Law (1999 to 2004)

Samuel J. Rubin Visiting Professor of Law (1998-99)

Vice Dean for Research (2004-05)

**University of Texas School of Law**

Leroy G. Denman, Jr., Regents Professor of Law (1994-1999)

Professor of Law (1993-1994)

Assistant Professor of Law (1989-93)

Associate Dean for Academic Affairs (1995-1998)

**Short-term teaching appointments:**

**Interdisciplinary Center (IDC), Hertzliya** (Selected Topics in Labor &  
Employment Law), November 2013;

**Nanjing University** (Comparative Labor & Employment Law), May 2012

**University of Melbourne School of Law**, Masters in Law program (Corporate  
Governance and Employee Relations: Comparative Perspectives), May 2011

**Education**

**Degrees:**

**Yale Law School**, New Haven, CT: J.D. 1983; Notes Editor, YALE LAW JOURNAL

**Lawrence University**, Appleton, WI: B.A., *summa cum laude*, 1978  
(Government); Phi Beta Kappa

**Other:**

**J. Roderick MacArthur Fellowship** (Fall 1984): Independent study (w/ Samuel Issacharoff) of prosecution of human rights crimes in Argentina.

**Thomas J. Watson Fellowship** (1978-79): Independent study of government programs for working parents in Sweden.

**University of Lund**, Sweden (1979-80): Coursework in sociology (in Swedish)

**Professional Experience**

**Bredhoff & Kaiser**, Washington, D.C.: Associate, December 1985 to June 1989.  
Practice areas: Labor and employment law

**Sugarman & Associates**, Philadelphia, PA: Associate, January to November 1985.  
Practice area: General litigation

**Honorable Patricia M. Wald**, Judge, U.S. Court of Appeals for the District of Columbia: Law Clerk, July 1983 to July 1984

**Scholarly Publications**

**Books:**

A NEW DEAL FOR CHINA'S WORKERS? (Harvard University Press, 2017)

RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW (Edward Elgar Publishing, Ltd., 2012) (co-edited w/ Michael Wachter)

REGOVERNING THE WORKPLACE: FROM SELF-REGULATION TO CO-REGULATION (Yale University Press, 2010)

REGULATING LABOUR IN THE WAKE OF GLOBALIZATION: NEW CHALLENGES, NEW INSTITUTIONS (Hart Publishing, 2007) (co-edited w/ Brian Bercusson)

WORKING TOGETHER: HOW WORKPLACE BONDS STRENGTHEN A DIVERSE DEMOCRACY (Oxford University Press, 2003)

**Articles and Book Chapters:**

*The "Constitution of Opportunity" in Politics and the Courts*, 94 TEXAS LAW REVIEW 1447 (2016)

*Are Unions a Constitutional Anomaly?*, 114 MICHIGAN LAW REVIEW 169-234 (2015)

*Will Workers Have a Voice in China's "Socialist Market Economy"? The Curious Revival of the Workers Congress System*, 36 COMPARATIVE LABOR LAW & POLICY JOURNAL 69-105 (2015)

- How the Workplace Constitution Ties Liberals and Conservatives in Knots*, 29 Texas Law Review 1137-61 (2015), reviewing SOPHIA Z. LEE, THE WORKPLACE CONSTITUTION FROM THE NEW DEAL TO THE NEW RIGHT (Cambridge Univ. Press, 2014)
- Working Together Transnationally*, forthcoming in RESEARCH HANDBOOK ON TRANSNATIONAL LABOUR LAW (Adelle Blackett & Anne Trebilcock, eds., Edward Elgar, 2015)
- Freedom of Association and the Right to Contest: Getting Back to Basics*, in VOICES AT WORK (Tonia Novitz & Alan Bogg, eds., 2014) (co-authored with Alan Bogg)
- Will Labour Unrest Lead to More Democratic Trade Unions in China?*, in CHINA AND ILO FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK (Roger Blanpain, Ulla Liukkunen, & Yifeng Chen, eds.) (Kluwer Press, 2014) (co-authored with Seth Gurgel)
- Extending the Case for Workplace Transparency to Information about Pay*, 4 UC-IRVINE LAW REVIEW 781-89 (2014)
- The Development of Employment Rights and the Management of Workplace Conflict*, in OXFORD HANDBOOK OF CONFLICT MANAGEMENT IN ORGANIZATIONS (William K. Roche, Paul Teague, and Alexander J.S. Colvin, eds., 2014)
- Comparative Labor and Employment Law in Developed Market Economies: Fostering Market Efficiencies or Repairing Market Failures?* (co-authored with Silvia Bonfanti & Nuno Garoupa), in RESEARCH HANDBOOK IN COMPARATIVE LABOR LAW (Matthew Finkin & Guy Mundlak, eds., 2016)
- Individual Employee Rights at Work*, in COMPARATIVE EMPLOYMENT RELATIONS IN THE GLOBAL POLITICAL ECONOMY (Carola Frege & John Kelley, eds., 2013)
- Workplace Democracy for the 21st Century? Rethinking a Norm of Worker Voice in the Wake of the Corporate Diversity Juggernaut*, 14 NEVADA LAW JOURNAL 309-21 (2014)
- Citizens of the Corporation? Workplace Democracy in a Post-Union Era*, forthcoming in CORPORATIONS AND CITIZENSHIP (Greg Urban, ed., 2013)
- Labor Law Reform Again? Reframing Labor Law as a Regulatory Project*, 16 NEW YORK UNIVERSITY JOURNAL OF LEGISLATION AND PUBLIC POLICY 383-400 (2013)
- Introduction: The Economics of Labor and Employment Law* (with Michael Wachter), in RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW, above, pp. 3-19
- Why Workers Still Need a Collective Voice in the Era of Norms and Mandates*, in RESEARCH HANDBOOK ON THE ECONOMICS OF LABOR AND EMPLOYMENT LAW, above, pp. 463-94)

*Enforcement of Private Transnational Labor Regulation: A New Frontier in the Anti-Sweatshop Movement?*, in THE ENFORCEMENT OF TRANSNATIONAL PRIVATE REGULATION (Fabrizio Cafaggi, ed., 2012)

*The Battle over the Board and the Future of Employee Voice in the U.S.*, NEW LABOR FORUM (Spring 2012)

*A Return to Governance in the Law of the Workplace (and the Question of Worker Participation)*, forthcoming in OXFORD HANDBOOK OF GOVERNANCE (David Levi-Faur, ed., 2011)

*Just the Facts: The Case for Workplace Transparency*, 63 STANFORD LAW REVIEW 351-407 (2011)

*"It Takes A Movement" - But What Does It Take to Mobilize the Workers (In the U.S. and China)?*, 15 EMPLOYEE RIGHTS & EMPLOYMENT POLICY JOURNAL 507-19 (2011)

*Reconstituting Employee Representation in an Era of Self-Regulation* (in REGULATING LABOUR, above)

*Freeing Employee Choice: The Case for Secrecy in Union Organizing and Voting*, 123 HARVARD LAW REVIEW FORUM 10 (2010) (online comment on Benjamin I. Sachs, *Enabling Employee Choice: A Structural Approach to the Rules of Union Organizing*, 123 HARVARD LAW REVIEW 655 (2010))

*Corporate Self-Regulation and the Future of Workplace Governance*, 74 CHICAGO-KENT LAW REVIEW 617 (2009)

*Who Mops the Floors at the Fortune 500? Corporate Self-Regulation and the Low-Wage Workplace*, 12 LEWIS & CLARK LAW REVIEW 671-93 (2008)

*Free Speech Rights that Work at Work: From the First Amendment to Due Process*, 54 UCLA LAW REVIEW 1463-96 (2007)

*Something Old, Something New: Governing the Workplace by Contract Again*, 28 COMPARATIVE LABOR LAW & POLICY JOURNAL 351-75 (2007)

*Harmonizing Work and Citizenship: A Due Process Solution to a First Amendment Problem*, 2005 SUPREME COURT REVIEW 115-72 (2007)

*Between Rights and Contract: Arbitration Agreements and Non-Compete Covenants as a Hybrid Form of Employment Law*, 155 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 379-445 (2007)

*Are Unions Doomed to Being a "Niche Movement" in a Competitive Economy? A Response to Professor Wachter*, 155 UNIVERSITY PENNSYLVANIA LAW REVIEW PENNUMBRA 101-08 (2007), available at <http://www.pennumbra.com/>

*Working Together Under Antidiscrimination Law: Paradoxes and Possibilities*, in NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW, VOLUME 3: BEHAVIORAL

ANALYSIS OF WORKPLACE DISCRIMINATION (Kluwer Law International, 2007) (Mitu Gulati & Michael Yelnosky, eds.)

*The Story of Washington Aluminum: Labor Law as Employment Law*, in EMPLOYMENT LAW STORIES 175-211 (Samuel Estreicher & Gillian Lester, eds., 2007)

*The Death of Labor Law?*, 2 ANNUAL REVIEW OF LAW & SOCIAL SCIENCES 105-23 (2006); reprinted in ICFAI JOURNAL OF EMPLOYMENT LAW [India], April 2007

*Is the NLRA an Outmoded Statute in the 21<sup>st</sup> Century?*, 57 LABOR LAW JOURNAL 148-57 (2006)

*The Story of Price Waterhouse v. Hopkins*, in EMPLOYMENT DISCRIMINATION STORIES 65-103 (Joel W. Friedman, ed., 2006)

*Rebuilding the Law of the Workplace in an Era of Self-Regulation*, 105 COLUMBIA LAW REVIEW 319-404 (2005)

*Working Together: Crossing Color Lines at Work*, 46 LABOR HISTORY 79-98 (2005) (awarded 2005 *Labor History* Prize for Best Article on a U.S. topic)

*Putting Grutter to Work: Diversity, Integration, and Affirmative Action in the Workplace*, 26 BERKELEY JOURNAL OF LABOR & EMPLOYMENT LAW 1-46 (2005)

*Taking Grutter to Work*, 7 THE GREENBAG 215 (2004)

*Reflections on the Declining Prestige of American Labor Law Scholarship*, 23 COMPARATIVE LABOR LAW & POLICY JOURNAL 789 (2003)

*The Ossification of American Labor Law*, 102 COLUMBIA LAW REVIEW 1527-1612 (2002)

*The Supreme Court's Labor and Employment Cases of the 2001-2002 Term*, 18 THE LABOR LAWYER 291-335 (2002)

*How Wrong Are Employees About Their Rights, and Why Does It Matter?*, 77 NEW YORK UNIVERSITY LAW REVIEW 6-35 (2002)

*An American Perspective on Fundamental Labor Rights*, in ROBERT HEPPLER, ED., SOCIAL AND LABOUR RIGHTS IN A GLOBAL CONTEXT (Cambridge Univ. Press 2002)

*Working Together: The Workplace, Civil Society, and the Law*, 89 GEORGETOWN LAW JOURNAL 1-96 (2000); reprinted in NYU SELECTED ESSAYS ON LABOR AND EMPLOYMENT LAW, VOLUME 2, pp. 29-130 (David Sherwyn & Michael Yelnosky, eds.)

*Work and Family: How Women's Progress at Work (and Employment Discrimination Law) May Be Transforming the Family*, 21 COMPARATIVE LABOR LAW & POLICY JOURNAL 467-500 (2000).



*The Changing Workplace as a Locus of Integration in a Diverse Society*, 2000  
COLUMBIA BUSINESS LAW REVIEW 331-69 (2000)

*Harassment Law and the First Amendment: A Window on the Role of the Workplace in a Democratic Society*, in SAMUEL ESTREICHER, ED., SEXUAL HARASSMENT IN THE WORKPLACE: PROCEEDINGS OF NEW YORK UNIVERSITY 51<sup>ST</sup> ANNUAL CONFERENCE ON LABOR 363-90 (Kluwer Press, 1999)

*The Workplace in a Racially Diverse Society: Preliminary Thoughts on the Role of Labor and Employment Law*, 1 UNIVERSITY OF PENNSYLVANIA JOURNAL OF LABOR & EMPLOYMENT LAW 49-85 (1998)

*Freedom of Expression in the Workplace and the Problem of Discriminatory Harassment*, 75 TEXAS LAW REVIEW 687-777 (1997)

*The Architecture of the First Amendment and the Case of Discriminatory Workplace Harassment*, 72 NOTRE DAME LAW REVIEW 1361-89 (1997)

*Wrongful Discharge Protections in an At-Will World*, 74 TEXAS LAW REVIEW 1655-92 (1996)

*Free Speech and Due Process in the Workplace*, 71 INDIANA LAW JOURNAL 101-151 (1995)

*Women in the Workplace: Preface*, 4 TEXAS JOURNAL OF WOMEN & THE LAW 1 (1995) (preface, Symposium Issue on Women in the Workplace)

*Labor, Property, and Sovereignty after Lechmere*, 46 STANFORD LAW REVIEW 305-359 (1994)

*Economic Rationality and Union Avoidance: Misunderstanding the National Labor Relations Act*, 71 TEXAS LAW REVIEW 921-992 (1993)

*What Do Workers Want? Employee Interests, Public Interests, and Freedom of Expression Under the National Labor Relations Act*, 140 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 921-1004 (1992)

*Speech on Matters of Public Concern: The Perils of an Emerging First Amendment Category*, 59 GEORGE WASHINGTON LAW REVIEW 1-59 (1990) (*excerpted in* JOHN GARVEY & FREDERICK SCHAUER, THE FIRST AMENDMENT: A READER 107-110 (1992))

*Dictatorship on Trial: Prosecution of Human Rights Violations in Argentina*, 10 YALE JOURNAL OF INTERNATIONAL LAW 118-150 (1985) (with E.F. Mignone and S. Issacharoff)

*Labor Picketing and Commercial Speech: Free Enterprise Values in the Doctrine of Free Speech*, 91 YALE LAW JOURNAL 938-960 (1982) (Note)

### **Selected Recent Lectures and Presentations**

“A New Deal for China’s Workers?,” The Stewart Lecture on Labor and Employment Law, Indiana University, Maurer School of Law (September 21, 2016)



- “ ‘Bowling Alone,’ Living Apart, but Working Together,” Milton Konvitz Lecture, Cornell University, Industrial and Labor Relations School (April 27, 2015)
- “Employer Self-Regulation: Making a Virtue of Necessity?,” Innis Christie Lecture in Labour and Employment Law, Schulich School of Law, Dalhousie University, Halifax, Nova Scotia (October 16, 2014)
- “A ‘New Deal’ for Chinese Workers? A Comparative Look at Labor in China,” presented with Prof. Mary Gallagher at Hopkins China Forum, Shanghai (May 20, 2013)
- “Reflections on the Rise and Fall of Trade Unions and Strikes in the U.S.,” presented at East China Normal University (May 22, 2013); Nanjing University, School of Law (May 21, 2013); Shanghai Normal University, Shanghai (May 20, 2013); China Institute of Industrial Relations, Beijing (May 16, 2013); Chinese Academy of Social Sciences, International Symposium on Labor Relations and Collective Bargaining in the Age of Globalization, Beijing, China (July 22, 2012)
- “What is Electoral Democracy for in China? The Case of Trade Union Elections,” presented at University of Texas School of Law (March 7, 2013); as Douglas Cunningham Visitor, Queen’s University Faculty of Law, Kingston, Ontario (Jan. 28, 2013); at Annual Meeting of AALS, New Orleans (Jan. 4, 2013); at Annual Meeting of Law & Society Association, Honolulu, Hawaii (June 5, 2012)
- “Free Speech Rights that Work at Work,” presented (by Skype) at Volda Academy, Volda, Norway, Ytringsfrihetsseminaret (temaet: ytringsfrihet i arbeidslivet) (Seminar on Free Speech – theme: free speech in the workplace) (Feb. 7, 2013)
- “Can Collective Bargaining Work in China? Some Labor Relations Dilemmas,” presented at research seminar on China and ILO Fundamental Principles and Rights at Work, University of Helsinki, Helsinki, Finland (Jan. 18, 2013)
- “Democracy in and about the Workplace,” presented at University of Nevada, Las Vegas, William S. Boyd School of Law, conference on Democracy and the Workplace (Feb. 24, 2012)
- Chinese labor relations and labor law, NYU School of Law & US-Asia Law Institute, 17<sup>th</sup> Annual Timothy A. Gelatt Dialogue on the Rule of Law in Asia, China’s Quest for Justice (November 7, 2011)
- Recent developments at the NLRB, panel presentation at Suffolk University School of Law, 38<sup>th</sup> Annual Robert Fuchs Labor Law Conference (October 20, 2011)
- “Public Sector Unions and Democracy,” presented at Northwestern University School of Law, Conference on Public Sector Unionization (October 14, 2011)
- Testimony at “Hearing on Emerging Trends at the National Labor Relations Board,” Before the House Committee on Education and the Workforce, Subcommittee on Health, Employment, Labor and Pensions (February 11, 2011)

“China’s Labor Question: Will One Hundred Flowers Bloom this Time Around?” presented at National Labor Relations Board headquarters (May 2011); University of Iowa School of Law (April 2011); University of Toronto School of Law (November 2010); and Rutgers University, Division of Global Affairs (October 2010)

“Just the Facts: The Case for Workplace Transparency,” presented at University of Melbourne Law School (April 2010), and at the Annual Meeting of the Law and Society Association, Chicago, IL (May 2010)

“The Fall and Rise of Workplace Governance in the U.S.,” presented at Shanghai Normal University (December 2010), at International University of Business and Economics School of Law, Beijing, China, and at China Institute of Industrial Relations, Beijing, China (March 2010)

“The Fall and Rise of Self-Governance at Work,” presented at University of Louisville, Brandeis School of Law, as the Carl A. Warns, Jr. Lecture, June 18, 2009

“Corporate Self-Regulation and the Future of Workplace Governance,” presented at the Chicago-Kent College of Law as the Annual Kenneth M. Piper Lecture, April 8, 2008

Testimony on Employee Free Choice Act before Senate Health, Education, Labor & Pensions Committee, March 27, 2007

“Who Mops the Floors at the Fortune 500? Corporate Self-Regulation and the Low-Wage Workplace,” presented at the Lewis & Clark College of Law as the Annual Higgins Lecture, March 18, 2008

“Putting Law to Work: The Resurrection of Workplace Self-Governance?,” presented at Case Law School as The Rush McKnight Labor Law Lecture, Feb. 28, 2007

“Corporate Self-Regulation and the Future of Workplace Governance,” presented at NYU School of Law as the Inaugural Lecture for the Catherine A. Rein Chair in Law, Jan. 29, 2008

### **Professional Activities & Honors**

Lawrence University Alumni Association, Board of Directors (from 2011)

The Labor Law Group: Executive Committee (from 2012); Member (from 2007)

University of Melbourne Centre for Employment and Labour Relations Law: Member, Advisory Board (from 2011); Visiting Professor, May 2011

American Association of University Professors, Litigation Committee (from 2010)

Obama Presidential Transition Team: Leader of agency review team reviewing National Labor Relations Board (Nov. 2008 to January 2009)

Podell Distinguished Teaching Award, NYU School of Law (2008)

Annual Higgins Visitor, Lewis & Clark College of Law (2008)

Samuel M. Kaynard Award for Excellence in the Fields of Labor & Employment Law,  
Hofstra University School of Law (2008)

American Law Institute: Member (from 2007); Advisor, Restatement of the Law 3d,  
Employment Law (from 2004)

American Association of Law Schools, Section on Labor Relations and Employment  
Law: Chair (2006); Chair-Elect (2005); Secretary (2004).

American Bar Association, Section on Labor and Employment Law: Secretary (2001-  
02)

Women's Advocacy Project, Austin, Texas: Board Member (1991-95); Chair (1993-94)

### **Personal**

Married to Samuel Issacharoff

Children: Jessica E. Issacharoff & Lucas E. Issacharoff

(Revised September 8, 2016)